

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

VIRTAMOVE, CORP.,

Plaintiff,

v.

HEWLETT PACKARD ENTERPRISE  
COMPANY,

Defendant.

Case No. 2:24-cv-00093-JRG-RSP  
(Lead Case)

**JURY TRIAL DEMANDED**

VIRTAMOVE, CORP.,

Plaintiff,

v.

INTERNATIONAL BUSINESS MACHINES  
CORP.,

Defendant.

Case No. 2:24-CV-00064-JRG-RSP  
(Member Case)

**JURY TRIAL DEMANDED**

**PLAINTIFF’S ANSWER TO DEFENDANT’S COUNTERCLAIMS**

Plaintiff VirtaMove, Corp. (“VirtaMove” or “Plaintiff”) hereby answers Defendant Hewlett Packard Enterprise Company’s (“HPE” or “Defendant”) counterclaims as follows:

**BACKGROUND**

1. Admit.
2. Admit.
3. Deny.
4. Deny.

## **PARTIES**

5. Admit.

6. Admit.

## **JURISDICTION AND VENUE**

7. Admit that Defendant's counterclaims arise under the patent laws of the United States and that Defendant seeks certain declaratory relief. Admit that this Court has jurisdiction over the subject matter of Defendant's counterclaims. Deny that Defendant is entitled to any such relief. Deny any other allegations in this paragraph.

8. Admit that Defendant seeks certain declaratory relief. Deny that Defendant is entitled to any such relief. Deny any other allegations in this paragraph.

9. Admit that this Court has personal jurisdiction over VirtaMove in this action. Deny any other allegations in this paragraph.

10. Admit.

## **COUNT I – DECLARATORY JUDGMENT OF NON-INFRINGEMENT OF THE '814 PATENT**

11. VirtaMove realleges Paragraphs 1-10 as though fully set forth herein.

12. Admit that Defendant seeks certain declaratory relief. Deny that Defendant is entitled to any such relief. Deny any other allegations in this paragraph.

13. Deny.

14. Admit that the Third Amended Complaint accuses Defendant of infringing the '814 Patent. Deny any other allegations in this paragraph.

15. Admit that Defendant seeks certain declaratory relief. Deny that Defendant is entitled to any such relief. Deny any other allegations in this paragraph.

16. Admit that Defendant seeks certain declaratory relief. Deny that Defendant is

entitled to any such relief. Deny any other allegations in this paragraph.

**COUNT II – DECLARATORY JUDGMENT OF NON-INFRINGEMENT OF THE  
'058 PATENT**

17. VirtaMove realleges Paragraphs 1-16 as though fully set forth herein.

18. Admit that Defendant seeks certain declaratory relief. Deny that Defendant is entitled to any such relief. Deny any other allegations in this paragraph.

19. Deny.

20. Admit that the Third Amended Complaint accuses Defendant of infringing the '058 Patent. Deny any other allegations in this paragraph.

21. Admit that Defendant seeks certain declaratory relief. Deny that Defendant is entitled to any such relief. Deny any other allegations in this paragraph.

22. Admit that Defendant seeks certain declaratory relief. Deny that Defendant is entitled to any such relief. Deny any other allegations in this paragraph.

**COUNT III – DECLARATORY JUDGMENT OF INVALIDITY OF THE '814 PATENT**

23. VirtaMove realleges Paragraphs 1-22 as though fully set forth herein.

24. Admit that Defendant seeks certain declaratory relief. Deny that Defendant is entitled to any such relief. Deny any other allegations in this paragraph.

25. Deny.

26. Admit that the Third Amended Complaint accuses Defendant of infringing the '814 Patent. Deny any other allegations in this paragraph.

27. Admit that Defendant seeks certain declaratory relief. Deny that Defendant is entitled to any such relief. Deny any other allegations in this paragraph.

28. Admit that Defendant seeks certain declaratory relief. Deny that Defendant is entitled to any such relief. Deny any other allegations in this paragraph.

**COUNT IV – DECLARATORY JUDGMENT OF INVALIDITY OF THE '058 PATENT**

29. VirtaMove realleges Paragraphs 1-28 as though fully set forth herein.

30. Admit that Defendant seeks certain declaratory relief. Deny that Defendant is entitled to any such relief. Deny any other allegations in this paragraph.

31. Deny.

32. Admit that the Third Amended Complaint accuses Defendant of infringing the '058 Patent. Deny any other allegations in this paragraph.

33. Admit that Defendant seeks certain declaratory relief. Deny that Defendant is entitled to any such relief. Deny any other allegations in this paragraph.

34. Admit that Defendant seeks certain declaratory relief. Deny that Defendant is entitled to any such relief. Deny any other allegations in this paragraph.

**DEMAND FOR JURY TRIAL**

Plaintiff demands a trial by jury on all issues so triable.

**PRAYER FOR RELIEF**

In response to HPE's prayer for relief, VirtaMove denies that HPE is entitled to any relief, including any of the relief requested in paragraphs A-G of HPE's prayer for relief or in HPE's Demand for Jury Trial. Further, VirtaMove requests the following relief:

WHEREFORE, VirtaMove respectfully requests that this Court enter:

- A. A judgment in favor of Plaintiff on all counterclaims asserted by Defendant;
- B. An adjudication that Defendant is not entitled to any relief on its counterclaims, including, without limitation, any fine or damages;
- C. A dismissal with prejudice of Defendant's counterclaims;

- D. A judgment and order finding that this is an exceptional case within the meaning of 35 U.S.C. § 285 and awarding to Plaintiff its reasonable attorneys' fees against Defendant;
- E. Plaintiff's costs of suit against Defendant; and
- F. Any and all other relief as the Court may deem appropriate and just under the circumstances.

Dated: November 26, 2024

Respectfully submitted,

/s/ Daniel Kolko

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**CERTIFICATE OF SERVICE**

I certify that on November 26, 2024, a true and correct copy of the foregoing document was electronically filed with the Court and served on all parties of record via the Court's CM/ECF system.

/s/ Daniel Kolko  
Daniel Kolko